

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTONIETTA ZAPPIER,

Plaintiff,

-against-

PROJECT VERITAS, et al.,

Defendants.

ORDER

22-CV-06709 (PMH)

PHILIP M. HALPERN, United States District Judge:

Counsel for all parties appeared by telephone for a pre-motion conference today, except defendant S2 HR Solutions 1A, LLC which did not appear.

The Court directs plaintiff, in light of counsel's representation concerning the status of settlement, to file by December 21, 2022 an order and stipulation of dismissal as to defendant S2 HR Solution 1A, LLC, or else the Court will dismiss that defendant without prejudice under Fed. R. Civ. P. 4(m).

The Court directs the parties to meet and confer concerning discontinuing either the state court action or the federal court action for purposes of efficiency and conservation of judicial resources.

The Court grants defendants Project Veritas and Michael Spadone leave to file a joint motion to dismiss and strike pursuant to Fed. R. Civ. P. 12(b) and (f). For the reasons discussed on the record with counsel for all parties, the Court will entertain the administrative exhaustion and release grounds for dismissal raised in defendants' pre-motion letter, only; and denies any application to abstain or stay this action in favor of the pending state court action under *Colorado River*.

The motion to dismiss shall be served, not filed, by January 20, 2023; opposition shall be served, not filed, by February 20, 2023; reply shall be served by March 6, 2023; and all motion papers shall be filed on the reply date, March 6, 2023. Should defendants elect to file an answer in lieu of a motion to dismiss, their time to file an answer is extended to January 20, 2023.

Discovery is not stayed.

See transcript.

SO ORDERED:

Dated: White Plains, New York
December 14, 2022



Philip M. Halpern
United States District Judge